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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/674,706	11/06/2000	Robert J Briscoe	36-1384	3584

7590 09/29/2005
Nixon & Vanderhye
1100 North Glebe Road 8th Floor
Arlington, VA 22201-4714

EXAMINER

COLBERT, ELLA

ART UNIT	PAPER NUMBER
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3624

DATE MAILED: 09/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/674,706	Applicant(s) BRISCOE ET AL.	
	Examiner Ella Colbert	Art Unit 3624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 4-25, 30, 32, 33 and 39-47 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1, 4-25, 30, 32, 33, and 39-47 are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1, 4-25, 30, 32, 33, and 39-47 are pending. Claims 1, 10, 16, 19, and 30 have been amended and claims 40-47 have been added in the prior Office action of 08/06/04 entered as Non-Final Rejection and 05/24/05 entered as Response After Non-Final Action.
2. The "Annotated Sheets of drawing figures 2-4, 10, and 13 filed 1/06/05 have been reviewed.
3. The claim objections in the prior Office Action have been overcome by Applicants' amendment and are hereby withdrawn.
4. The Specification still remains objected to because of the following: Figure 1 in the Specification references element "6" as "public switched telephony network (PSTN) 6" and the drawing figure appears to have element "6" as "PPP". Clarification is respectfully requested.

Election/Restrictions

5. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1, 4-25, 30, 32, 33, and 39-45, drawn to sampling the usage of network resources, classified in class 713, subclass 201.
 - II. Claim 46, drawn to measuring the amount of network resources, calculating a charge for each terminal, and performing sampling to check the validity of the measurement, classified in class 709, subclass 224.
 - III. Claim 47, drawn to establishing a data flow from an originating customer connected to the first sub-network, communicating tariff data, measuring a

quantity of data flow, communicating measurement data, calculating the charge(s) at the clearing entity, making a payment, and communicating a bill, classified in class 705, subclass 1.

6. Inventions Group I, Group II, and Group III are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because Group I the combination has separate utility such as measuring the customer terminals usage, calculating a network usage charge, sampling the usage of the network resources, measuring a portion of the usage, comparing the measurement and Group II has measuring each terminals amount of network resources, calculating a charge for each terminal, performing sampling to check the validity of the measurement. Group III the subcombination has separate utility such as establishing a data flow, communicating tariff data, measuring the quantity of data flow, communicating measurement data, calculating charge(s), making a payment, and communicating a bill according with the end-to-end tariff.

7. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

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8. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

9. Applicants are advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Inquiries

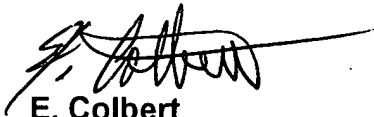
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ella Colbert whose telephone number is 571-272-6741. The examiner can normally be reached on Monday-Thursday, 6:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on 571-272-6747. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'E. Colbert', with a long horizontal stroke extending to the right.

E. Colbert
Primary Patent Examiner
September 26, 2005